IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 441 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GANGADHAR Y RAMEKAR

Versus

DAHYABHAI H PATEL

Appearance:

MR PRANAV G DESAI for Petitioner

MR KB PANDE for Respondent No. 1

NOTICE SERVED for Respondent No. 2

MR SP DAVE, APP for Respondent No. 3

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 30/03/2000

ORAL JUDGEMENT

1. Original complainant Shri Gangadhar Y. Ramekar has been aggrieved with the impugned judgment and order

of acquittal dated 25/10/1989 rendered by the Ld. Judicial Magistrate First Class (Municipal), Vadodara in Criminal Case No. 2316 of 1987.

2. It would appear that at around 9.00 O'clock in morning of 11/3/1987 the complainant had an occasion to take sample of cow milk from the accused no. 2 attending to the affairs of purchasing and selling of milk/milk products on behalf of accused no.1. It would also appear that the sample was found by the Public Analyst to be not conforming to the standards laid down under the Prevention of Food Adulteration Act, 1954 (for short 'the PFA Act'). The accused persons pleaded not guilty in the Criminal Case filed by the complainant before the Ld. Magistrate. Upon the conclusion of trial Ld. Magistrate acquitted the accused persons of the offence punishable u/S. 7 (2) read with section 16 (1)(a) of the PFA Act on number of grounds. When this appeal came up for hearing, with the assistance of Mr. P.G. Desai, Ld. Advocate for the appellant and Mr. S.P. Dave, Ld. APP, the evidence adduced before the Ld. Magistrate was examined and the grounds of acquittal were scrutinised. Although no one has remained present for the accused persons, it would appear that the acquittal is not likely to be disturbed atleast on the ground that the accused persons did not get particulars of getting the sample examined at the Central Food Laboratory as required u/S. 13(2) of the PFA Act as per the facts set out in the judgment in question and on the ground that the procedure of taking of sample after appropriately stirring the milk has not been established beyond reasonable doubt to have been followed. It is interesting to note that the report of the Public Analyst indicates that the milk fat is according to the PFA standards, but the milk solid not fat is less by around 1%. Co-relating this findingof the Public Analyst with the procedure of taking of milk sample, it would clearly appear that the acquittal rendered by the Ld. Magistrate is justifiable.

Hence, in the facts of the case, this appeal is not entertained. The same is accordingly dismissed.

* * *

PVR.